COMMISSION

COMMISSION DECISION
of 30 September 1998
on aid granted by Germany to SKET Verseilmaschinenbau GmbH

(notified under document number C(1998) 3022)

(Only the German text is authentic)

(Text with EEA relevance)

(2000/271/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2),

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having given the interested parties, pursuant to Article 93(2), a period in which to submit their comments,

Whereas:

I

On 15 March 1995 the Commission decided to initiate proceedings under Article 93(2) of the EC Treaty in respect of State aid for SKET Schwermaschinenbau Magdeburg GmbH, Magdeburg (SKET SMM) [1]. The proceedings also concerned the SKET SMM subsidiaries, i.e. Entstaubungstechnik Magdeburg GmbH, Magdeburg (ETM) and Drahtziehmaschinenwerk Grüna GmbH, Chemnitz (DZM). The aid in question had been received by SKET SMM before, and in the course of, its privatisation and restructuring. Previously, SKET SMM had already received aid, to which the Commission had not objected (NN 46/93 and NN 95/93). The proceedings were given the number C 16/95.

On 30 July 1996 the Commission decided to extend the C 16/95 proceedings to the State aid paid since the initiation decision, which was not covered by that decision [2]. The investors (Oestmann & Borchert Industriebeteiligungen GbR) had withdrawn from the restructuring plan at the end of 1995, and a new plan with additional aid had been notified. The new plan envisaged, *inter alia*, the creation of several successor companies which would operate those profitable parts of the SKET SMM operation which could be salvaged from the bankrupt company. SKET Verseilmaschinenbau GmbH was one of the successor companies.

SKET SMM was forced in October 1996 to file for a *Gesamtvollstreckungsverfahren* (GV) (bankruptcy proceedings in the new *Länder*). The plan which was the subject of the initiation decision of 30 July 1996 had thus not been able to restore SKET SMM to viability. On 26 July 1997 the Commission adopted the negative final Decision 97/765/EC with regard to the aid for SKET SMM [3]. The GV did not apply to the two subsidiaries ETM and DZM, which were transferred to the Federal Office for Special Unification-related Tasks (the BvS). Decision 97/765/EC terminated case C 16/95 in respect only of that part of SKET SMM which was covered by the GV. The case was therefore split into three separate parts, as follows: C 16a/95 for SKET SMM, C 16b/95 for ETM and C 16c/95 for DZM.

To reflect the new reality that the successor companies to SKET SMM were taking independent courses, each of the successor companies was allocated a separate aid number to reflect this. SKET Verseilmaschinenbau GmbH was allocated NN 124/97. The present Decision relates only to SKET Verseilmaschinenbau GmbH.

[1] OJ C 215, 19.8.1995, p. 8 andOJ C 298, 9.10.1996, p. 2.
[2] OJ C 298, 9.10.1996, p. 2.
[3] OJ L 314, 8.11.1997, p. 20.

On 5 November 1997 the Commission decided to initiate the Article 93(2) procedure in respect of aid measures to SKET Verseilmaschinenbau GmbH and the file was assigned the case number C 72/97. By letter dated 28 November 1997 (SG(97) D/9912) the Commission advised Germany of its decision. The contents of this letter were published in the *Official Journal of the European Communities* on 18 March 1998 ([4]).

By letter dated 5 December 1997 (and registered as received on the same date by the Commission), Germany advised the Commission that the privatisation of SKET Verseilmaschinenbau GmbH had occurred and provided some details of the privatisation. By letter dated 26 January 1998 (and registered as received on 27 January 1998 by the Commission), Germany replied to the Commission's letter of 28 November 1997 and also provided additional details on the privatisation of SKET Verseilmaschinenbau GmbH. The Commission submitted further queries on 14 May 1998 to the German authorities, who replied by letter dated 26 May 1998 (registered as received on the same day by the Commission).

II

SKET Verseilmaschinenbau GmbH is based in Magdeburg, Saxony-Anhalt, Germany. In 1997 it employed some 35 persons, had a turnover of DEM 20 800 000 and a balance sheet total of DEM 29 400 000.

SKET Verseilmaschinenbau GmbH was entered as a company in the Magdeburg trade register on 8 November 1996 with a share capital of DEM 50 000. The sole shareholder was the BvS. On 22 November 1996, SKET Verseilmaschinenbau GmbH entered into an agreement with the liquidator of SKET SMM to take over various assets of the cable-making machinery operation of SKET SMM. The assets, including second-hand office equipment, old software and intellectual property were acquired at their market value and paid for from money awarded to SKET Verseilmaschinenbau GmbH by the BvS by way of capital provision. The transfer was confirmed by a notarially certified contract on 27 March 1997.

SKET Verseilmaschinenbau GmbH is an engineering company specialising in the design and development of cable and wire making machines of all types made to meet individual customer requirements. It can complete entire systems on a turnkey basis. Consequently, it provides all the services associated with the development, design, supervision of manufacture, construction and assembly, installation and commissioning of custom-built cable-making machinery. It is to be noted that at the time of privatisation the firm engaged in all stages involved in the manufacture of machinery and plants for the production of cable, except that of actual manufacture. For this, it relied on the services of a mechanical engineering firm. Under the proposed restructuring plan it will acquire some productive capacity.

The type of cable products which can be produced on the machinery designed and developed by SKET Verseilmaschinenbau GmbH range from steel wire, corded steel, stressed steel cable for mechanical purposes such as for reinforcing tyres and use in stressed concrete to copper and aluminium cable and wire products for electronic communications or energy transmission purposes such as in telephone lines, high voltage cable and undersea cable.

III

The general market for machine manufacture is extremely diversified and the subsector for cable and wire making machinery is dependent on the condition of the markets downstream. The general market for machine manufacture was affected by the recession at the end of 1994. Although growth returned in 1995, the extent to which it may continue in coming years is unclear. A clearer view of the state and prospects for the cable and wire making machinery subsector can be gauged by reference to demand for cable and wire products ([5]).

The market for cable- and wire-making machinery is worldwide. This means that not only is there direct trade between Member States in these products but that undertakings in different Member States are also competing for market shares in third countries ([6]). Demand for this type of machinery is dependent on the condition of downstream markets and, because cable and wire are important both for communications and energy transmission, demand is determined by the general state of the economy. Demand for cabling and wire is also particularly dependent on the state of the automotive industry. In the long term, increased demand for energy and communications, coupled with deregulation, and an associated increase in competing networks will ensure steady growth. However, it is to be noted that the growth in demand for optical fibre will mean that demand for metal-based wires in the telecommunications industry will not increase as much as in the past. Geographically speaking, as a result of the changes in central and eastern europe and growth in South-East Asia and the People's Republic of China, these areas are also becoming increasingly important sales markets. The sector is also characterised by a growing specialisation in high-tech products, with customer service gaining in importance as a value-added element. The sector was affected by the recession in 1992 to 1993, but the sector began its recovery in 1994 and growth continued into 1995. The general upward trend should continue from 1997 onwards ([7]).

Since the recovery in 1994, the relevant market has therefore apparently not suffered from structural overcapacity despite the impact of the recession.

([4]) OJ C 83, 18.3.1998, p. 10.

([5]) On the state of the general machine manufacturing sector, see *Panorama of EU Industry* 1997, Volume 2, pages 13-23 to 13-29.

([6]) Intra-Community trade exceeds trade with third countries, see *Panorama of EU Industry* 1997, Volume 2, page 15-5.

([7]) On the state of the market for cable and wire, see *Panorama of EU Industry* 1997, Volume 2, pages 15-3 to 15-7 and 15-4 to 15-17.

IV

The economic environment in which SKET SMM was originally designed to operate was that of a centralised command economy. In terms of product range, SKET SMM was a conglomerate manufacturing various products, including rolling mills, wire and cable producing equipment and machines for processing oil seeds. Such a diverse and fragmented structure meant that as its economic environment changed into that of a competitive market, attempts to privatise SKET SMM as a single economic unit undertaking met with no success. The restructuring of the conglomerate had been started early on, but had not been completed when the Commission reached a negative decision regarding the aid measures to SKET SMM notified in 1994. The measures also concerned the potentially profitable components of the conglomerate, one of which was the cable-making machinery operation. By the time SKET SMM filed for bankruptcy proceedings in October 1996, Germany had modified its original strategy and had resolved to extract the potentially profitable activities from the conglomerate, which were to be continued as smaller, autonomous economic units.

In order to achieve this, the BvS set up a commercially inactive coordinating company, SKET Management- und Vertriebsgesellschaft GmbH ([8]), to supervise the restructuring and preparation for privatisation of five commercially autonomous companies, also owned by the BvS. All were small- or medium-sized enterprises. SKET Management- und Vertriebsgesellschaft GmbH, acting on the instructions of the BvS, was entrusted with the task of finding investors and negotiating the privatisation of the five salvaged undertakings. In April 1998, the last of the five companies was privatised and the process of dismantling the SKET Management- und Vertriebsgesellschaft GmbH began. The five salvaged businesses (*Auffanggesellschaften*) are:

— SKET Maschinen- und Anlagenbau GmbH ([9])

— SKET Walzwerkstechnik GmbH ([10])

— SKET Ölsaatentechnik GmbH (later renamed Cimbria SKET GmbH) ([11])

— SKET Maschinenbau-EDV GmbH ([12])

— SKET Verseilmaschinenbau GmbH.

(In addition to these, there are the two subsidiaries, ETM and DZM, which were transferred to the BvS prior to the opening of bankruptcy proceedings against SKET SMM.)

V

On 6 November 1997 an agreement for the sale of the shares in SKET Verseilmaschinenbau GmbH was concluded between the BvS, as vendor, and Mr Johannes Erich Wilms, the purchaser. The sale was on the basis of open public tender, the purchaser's tender being the best offer submitted in response thereto.

The purchase price of DEM 1 has been paid to the BvS. The other obligations accepted by the purchaser as part of the privatisation involve taking over by 31 August 1998 existing guarantees in the amount of DEM 6 700 000 originally granted by the BvS (the investor having lodged DEM 3 000 000 at the time of privatisation as a security against this commitment), releasing the BvS from another guarantee of DEM 876 000 and a commitment to invest DEM 6 500 000 in the restructuring of the company (secured by 75 % penalty payments in the event of a failure to do so). The investor may not distribute any profits or other sums from SKET Verseilmaschinenbau GmbH before 31 December 2000.

The investor, Mr Johannes Erich Wilms, is the sole owner of several small- to medium-sized companies making up the Wilms Group. The Group, which has its main office in Menden, North Rhine-Westphalia, Germany operates in three sectors: electric cable and connection manufacturing, environmental technology (for example, technology for filtering and sewage works) and machine construction. [...] (*). With the exception of one Austrian subsidiary, the Group is entirely based in Germany. The Wilms Group employs some 1 500 people.

VI

The original problems related to the operation of SKET Verseilmaschinenbau GmbH when it was a component of SKET SMM were a consequence of being part of an unwieldy and fragmented industrial conglomerate not run according to market principles.

The first step in the restructuring programme was to separate the cable machine operation from SKET SMM. In order to do this, the resources comprising the cable-making machine production operation needed to be preserved for possible separation from the failing SKET SMM, reorganised on a standalone basis and then transferred to SKET Verseilmaschinenbau GmbH, which would continue to implement the restructuring measures. The new company acquired staff, machinery, technical equipment and office equipment from the liquidator of SKET SMM. Thirty-five employees were involved and the equipment included old office equipment (originally acquired for DEM 1 000 000) and software (originally acquired for DEM 200 000) acquired for DEM 150 000 as well as intellectual property rights, also acquired for DEM 150 000.

A further problem concerned the acceptance by SKET Verseilmaschinenbau GmbH, of five contracts originally awarded to SKET SMM. Payment under the contracts had already been made to SKET SMM in advance of their completion and the sums then became part of the assets of the bankrupt company. Consequently, SKET Verseilmaschinenbau GmbH will make a loss on these contracts. However, from SKET Verseilmaschinenbau GmbH's point of view, it must fulfil the contracts to secure its customer base and commercial reputation.

The final phases of the restructuring operation envisaged under the restructuring plan consist of a strategic reorientation, in particular a shift to production, and full incorporation into the Wilms Group.

([8]) State aid case number NN 67/97.
([9]) State aid case number C 69/97
([10]) State aid case number C 70/97
([11]) State aid case number NN 125/97
([12]) Aid to this firm was approved by the Commission in May 1998 (Case number NN 126/97).

The strategic reorientation involved switching from a purely engineering operation to an operation which includes a manufacturing capacity, so that SKET Verseilmaschinenbau GmbH can develop and deliver turnkey systems with full service support from initial design and development through to final on-site commissioning of installed systems. The acquisition of production capacity requires additional premises (at an estimated cost of DEM 3 100 000) and an increase in the workforce to 50 in 2001. In addition, the product range has been expanded to include extruder machines. The cost of the new equipment is estimated at DEM 600 000. Entry into the market for the development and manufacture of extruders will cost an estimated DEM 1 400 000. In addition, a simplified set of common components will be developed to reduce costs. Parts of minimal importance for the operations or where quality need not be a major consideration will be outsourced. Furthermore, the purchase of materials and components and final production will be based to a greater extent on just-in-time strategies. The costs for promoting the company's products are estimated at DEM 600 000. In addition, as it is important for this type of operation to be able to demonstrate techniques and machinery to clients, an estimated further DEM 800 000 is to be invested in constructing demonstration models and prototypes. On this basis, the total cost of this final phase of the restructuring is estimated at DEM 6 500 000.

The integration into the Wilms Group operation will cut costs as a result of the introduction of standardised processes and common standards as well as common components at the Group level. It is also intended that other companies in the Wilms Group's machine manufacturing operation (which are not active in the same sector as SKET Verseilmaschinenbau GmbH) will be able to supply aggregate components which can be incorporated by SKET Verseilmaschinenbau GmbH into its final products. In addition, the buying-in of materials will be centralised within the group, although SKET Verseilmaschinenbau will still retain a purchasing department. The financial control and personnel departments will also be centralised. SKET Verseilmaschinenbau GmbH will also be integrated into the investor's sales and distribution network. Further measures will be taken in respect of cooperation at the research and development stage. This final phase of restructuring will be completed by 1999.

VII

The aid measures under consideration are as follows:

Source	Type	DEM
Bvs	Payment towards capital provision	5 000 000
Bvs	Loan in respect of the cable machine operation of SKET SMM and subsequent waiver of right to repayment thereof	500 000
Bvs	Loan for prefinancing of contracts and subsequent waiver of right to repayment thereof	1 000 000
Bvs	Payment towards final restructuring costs	1 750 000
	Total	8 250 000

There is also the guarantee of DEM 6 700 000 which was taken over by the investor on 31 August 1998 (secured by the deposit of DEM 3 000 000 when the company was privatised). It is to be noted that, as well as paying by means of a security, the investor assumed responsibility for the guarantee in April 1998 and that SKET Verseilmaschinenbau GmbH therefore enjoyed the benefit of this guarantee for only some four months.

VIII

The aid measures identified above fall within the scope of Article 92(1) of the EC Treaty for the following reasons.

SKET Verseilmaschinenbau GmbH is an undertaking operating in a sector in which the relevant market extends across Member States, and trade between Member States is therefore affected. Aid by its very nature tends to distort competition. The aid measures granted to the company by Germany therefore fall within the scope of Article 92(1) of the EC Treaty. Article 92(2) and (3) of the EC Treaty provides for the possibility of exemption of aid falling within the scope of Article 92(1). For the reasons set out below, the only basis for exempting the restructuring aid to SKET Verseilmaschinenbau GmbH, a firm in difficulty, is Article 92(3)(c).

The aid was granted to an undertaking which the BvS had founded when bankruptcy proceedings were initiated against another economic entity. Although operating through the legal person of SKET SMM GmbH, this latter entity was in reality a cluster of diverse economic operations which had been undergoing restructuring over a period of several years. The new undertaking, SKET Verseilmaschinenbau GmbH, is a continuation of part of the cable-making machinery operation of SKET SMM. The BvS strategy, as modified, was to provide the new company with capital and funds in order to privatise it on a stand-alone basis. The distinguishing feature of this arrangement is that SKET SMM GmbH, which had been in continuous State ownership since 1990, could never have been privatised as a single or as a group economic unit. These circumstances distinguish this case from those involving the creation of *Auffanggesellschaften* following the failure of a company already privatised.

At the moment of its creation, SKET Verseilmaschinenbau GmbH was not viable. The cable-making machinery operation of SKET SMM was not founded and operated as an autonomous commercial enterprise, but was embedded in a vast and unwieldy conglomerate. Therefore, it was necessary to extract the operation from the bankrupt company and to restructure it to make it attractive for sale on the market.

That the aid granted to SKET Verseilmaschinenbau GmbH, which took over parts of the assets and resources of a bankrupt company, may be treated as restructuring aid is justifiable both in view of the particular historic and economic circumstances of the companies, which found themselves being compelled to readjust rapidly from a centralised economic system to a market system, and in view of the role played by the BvS (the organisation which took over from the *Treuhandanstalt*) in this readjustment.

In view of these considerations, the Commission considers the derogation in Article 92(3)(c) of the EC Treaty relevant. In order to meet the requirements for a derogation under this heading, the aid must satisfy the criteria set out in the guidelines for rescue and restructuring aid (the Guidelines) (*).

The Commission considers that aid for rescue and restructuring may contribute to the development of economic activities without adversely affecting trade against the Community interest if the conditions set out in Section 3 of the Guidelines are met, and will therefore authorise such aid under those conditions. Where the firms to be rescued or restructured are located in assisted areas, the Commission will take regional considerations under subparagraphs (a) and (c) of Article 92(3) into account as described in paragraph 3.2.3 of the Guidelines.

The measures notified by Germany in 1996 amounted to DEM 18 100 000 and were intended to be restructuring aid.

IX

To satisfy the criteria set out in the Guidelines, all restructuring plans must restore the long-term viability and health of the firm within a reasonable time scale and on the basis of realistic assumptions.

(*) Business secret.

The problems faced by the operation which was eventually to become SKET Verseilmaschinenbau GmbH and the measures required to address them were outlined above. These included identifying the core, profitable activity of the operation and then extracting it together with the relevant assets from the old operation as a going concern. This also entailed completing contracts in respect of cable-making equipment awarded to SKET SMM. The final phase of the restructuring comprised establishing test facilities and integration into the Wilms Group.

On the basis of the figures provided by Germany, SKET Verseilmaschinenbau GmbH should begin to make a small operating profit in 1999:

(1 000 DM)

	1997	1998	1999	2000	2001
Operating income	20 800	27 700	26 000	30 600	33 500
Material costs	17 600	16 700	19 100	21 900	23 600
Personnel costs	2 500	2 900	3 300	3 700	3 800
Written off	100	380	620	700	600
Other operating costs	7 200	3 700	3 200	3 500	4 025
Result before interest	300	−450	580	980	1 215
Extraordinary sums	−800	−400	−400	−500	−550
Pre-tax result	−400	−780	280	580	756

The projected increase in turnover from 1999 onwards appears realistic. SKET Verseilmaschinenbau GmbH began to secure profitable contracts even prior to privatisation, and negotiations for several further contracts for 1999 were also being conducted. This improved position has been consolidated by the integration into the Wilms Group and will be enhanced by the acquisition of manufacturing capacity.

In view of the foregoing, the Commission concludes that its concerns expressed in the initiation of proceedings have been addressed and that the criterion in the Guidelines concerning the restoration to profitability is satisfied.

X

A further condition under the Guidelines for restructuring aid to be acceptable is that measures are taken to offset, as far as possible, adverse effects on competitors. Where there is a structural excess of production capacity in a relevant market in the Community served by the recipient, the restructuring plan must make a contribution, proportionate to the amount of aid received, to the restructuring of the industry serving the relevant market in the European Community by irreversibly reducing or closing capacity. Where, on the other hand, there is no structural excess of production capacity in a relevant market in the Community served by the recipient, the Commission will normally not require a reduction of capacity in return for the aid.

The Commission notes that the recipient firm is located in an area covered by Article 92(3)(a) of the EC Treaty ([13]). Under the Guidelines, where overcapacity needs to be reduced in regions eligible for aid pursuant to Article 92(3)(a) of the EC Treaty, the Commission may adopt a more flexible approach and accept a smaller reduction than it would in other regions ([14]).

([13]) OJ C 368, 23.12.1994, p. 12.
([14]) See State aid case N 464/93.

However, there is no overcapacity identifiable by the Commission in the market in which SKET Verseilmaschinenbau GmbH is operating ([15]). Therefore, there is no need for SKET Verseilmaschinenbau GmbH to reduce capacity in order to comply with the Guidelines.

The Wilms Group is active in related markets, that of the production of cable and wiring and the production of cable and wire-making machinery. The incorporation of SKET Verseilmaschinenbau GmbH into the Group will therefore have elements both of vertical integration and concentration. Given the relatively stable levels of probable consumption of cable and wiring in the Community over the last few years, this suggests that the Wilms Group, enlarged by the acquisition of SKET Verseilmaschinenbau, will have a market share within the European Union of less than 1 %. Given that the geographic market is global, the overall market share should be even smaller ([16]). Nor has the Commission reason to believe that the enlarged Group will acquire a market share in the production of cable and wire-making machinery affording it market power. Therefore, such concentration as may occur under the privatisation will have a negligible impact on the market, and the element of vertical integration cannot be used to extend market power gained at one level of the market either upstream or downstream.

It is to be noted that no comments were received from third parties in response to publication of the contents of the letter to Germany announcing the Commission's decision to initiate proceedings ([17]). It is further to be noted that the initial notification related to a much higher aid package and no private investor seemed forthcoming at that time.

In view of the foregoing, the Commission concludes that its concerns expressed in the initiation of proceedings have been addressed and that the criterion concerning no undue distortion of competition is satisfied.

XI

A further condition under the Guidelines for restructuring aid to be acceptable is that the amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken and must be related to the benefits anticipated from the Community's point of view. The investor is also expected to make a significant contribution to the restructuring plan from its own resources.

In this case, the total aid package from the BvS amounts to DEM 8 250 000. This amount is made up of a subsidy of DEM 5 000 000 awarded by the BvS in order to equip SKET Verseilmaschinenbau GmbH with capital. A further element of the package consists of what was initially a loan of DEM 1 000 000 in order to cover expenses incurred in carrying out contracts. The right to repayment was then waived. SKET Verseilmaschinenbau GmbH has also benefited from a loan to the liquidator of SKET SMM in the amount of DEM 500 000 to extract the cable-making machinery operation from SKET SMM repayment of which was also waived during the privatisation. Finally, SKET Verseilmaschinenbau GmbH will also benefit from a payment of DEM 1 750 000 to be out paid in tranches in respect of the final phase of restructuring. There is also a guarantee in the amount DEM 6 700 000 granted until 31 August 1998 and taken over by the investor in advance of that date in April 1998.

Although the purchase price was only DEM 1, the investor was committed to taking over guarantees from the BvS in the amount DEM 6 700 000 by 31 August 1998 (a commitment secured by the sum of DEM 3 000 000 lodged at the time of privatisation, with the investor assuming full responsibility for the guarantee in April 1998) and is also committed to investing DEM 6 500 000 in SKET Verseilmaschinenbau GmbH (a commitment secured in the event if non-performance by penalty payments of 75 %). The investor may not distribute any profits or other sums from SKET Verseilmaschinenbau GmbH before 31 December 2000. In addition the investor has committed to maintaining 40 jobs until June 1999, increasing staff to 50 by 2001. The total restructuring costs therefore amount to DEM 21 450 000, of which the private investor is contributing some 60 %. The investor's contribution may therefore be regarded as reasonable. In view of the foregoing, the Commission concludes that its concerns expressed in the initiation of proceedings have been addressed and that the criterion concerning the proportionality of aid is satisfied.

([15]) See Section 3.2.3 of the Guidelines.
([16]) See *Panorama of EU Industry* 1997, Volume 2, pages 13-23 to 13-29 in conjunction with pages 15-3 to 15-7 and 15-4 to 15-17.
([17]) See Panorama of EU Industry 1997, Volume 2, pages 15-14 to 15-17.

XII

The company must fully implement the restructuring plan that was submitted to and accepted by the Commission and must discharge any other obligations required by the Decision. Otherwise, unless the original Decision is amended following a new notification from the Member State, the Commission will take steps to require the recovery of the aid. Part of the restructuring of SKET Verseilmaschinenbau GmbH had occurred prior to its privatisation. The investor is committed to implementing the rest of the restructuring plan. This is demonstrated by its commitment to investing DEM 6 500 000 in the new subsidiary, secured by penalty payments, and it has also taken over full responsibility for an existing guarantee from the BvS in advance of the date for which this was envisaged.

XIII

In view of the foregoing, the Commission finds that the restructuring aid to SKET Verseilmaschinenbau GmbH may be regarded as compatible with the common market, provided it satisfies the conditions set out in the guidelines on State aid for rescuing and restructuring firms in difficulty,

HAS ADOPTED THIS DECISION:

Article 1

The aid granted by Germany to SKET Verseilmaschinenbau GmbH comprising:

(a) the payment to the company by way of provision of capital (DEM 5 000 000)

(b) the loan in respect of the cable machine operation and the waiver of repayment thereof (DEM 500 000)

(c) the loan to finance performance of contracts and the waiver of repayment thereof (DEM 1 000 000)

(d) the payment in respect of the final phase of restructuring (DEM 1 750 000)

(e) the performance guarantee by the BvS (DEM 6 700 000) subsequently taken over by the investor in April 1998

is compatible with the common market in accordance with Article 92(3)(c) of the EC Treaty and Article 61 (3)(c) of the EEA Agreement.

Article 2

In accordance with the Community guidelines on State aid for rescuing and restructuring firms in difficulty (1994), Germany shall submit a detailed annual report on the implementation of the restructuring plan.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 30 September 1998.

For the Commission

Karel VAN MIERT

Member of the Commission